



Report to the Legislature: The Special Education Reimbursement ("Circuit Breaker") Program

May, 2010



This document was prepared by the
Massachusetts Department of Elementary and Secondary Education
Mitchell D. Chester, Ed.D.
Commissioner

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Mitchell D. Chester, Ed.D.
Commissioner

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Dear Members of the General Court:

I am pleased to submit this *Report to the Legislature: The Special Education Reimbursement ("Circuit Breaker") Program* pursuant to Chapter 27 of the Acts of 2009, line item 7061-0012, that reads in part:

"...provided further, the department shall conduct audits of fiscal year 2009 claims; provided further, that if the claims are found to be inaccurate, the department shall recalculate the fiscal year 2010 reimbursement amount and adjust the third and fourth quarter payments to the districts to reflect the new reimbursement amount; and provided further, that the department shall file a report with the house and senate committees on ways and means not later than February 15, 2010, on the results of the audit ..."

School districts are eligible for reimbursements of expenditures for students whose special education program costs more than four times the statewide foundation budget; in FY09 this threshold was \$37,328 per student. By law, districts are reimbursed for 75% of the costs above the threshold, subject to appropriation. In FY09, 288 school districts submitted claims for over 11,000 students, resulting in reimbursements in FY10 projected to total over \$125.3 million. FY09 claims for extraordinary relief totaling \$3.8 million were submitted and paid from the FY09 appropriation after last year's legislative report was filed.

The Department audited FY09 claims submitted by forty-seven districts. The audit process resulted in the reduction of total reimbursements to these districts from \$14,744,189 to \$14,513,365, or 1.6 percent. Audits will be performed as an ongoing process. An analysis of common mistakes will be used to improve program documentation and training for local officials. Our goal is to significantly reduce the number of audit findings in subsequent years.

If you have questions, please feel free to contact Associate Commissioner Jeff Wulfson at (781) 338-6500.

Sincerely,

Mitchell D. Chester, Ed.D.
Commissioner of Elementary and Secondary Education

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Introduction

The Department of Elementary and Secondary Education respectfully submits this *Report to the Legislature: The Special Education Reimbursement (“Circuit Breaker”) Program* pursuant to Chapter 27 of the Acts of 2009, the fiscal year 2010 budget. It reports on the progress made on certain aspects of the Special Education Reimbursement (“Circuit Breaker”) Program, line item 7061-0012. This language states, in part, that:

“...the department shall conduct audits of fiscal year 2009 claims; provided further, that if the claims are found to be inaccurate, the department shall recalculate the fiscal year 2010 reimbursement amount and adjust the third and fourth quarter payments to the districts to reflect the new reimbursement amount; and provided further, that the department shall file a report with the house and senate committees on ways and means not later than February 15, 2010, on the results of the audit ...”

Implementation of the Circuit Breaker Program in FY10

FY09 claims received

School districts are eligible for reimbursements for students whose special education programs cost greater than four times the statewide foundation budget; in FY09 this threshold was \$37,328 per student. By law, districts are reimbursed for 75 percent of costs above this threshold, subject to appropriation.¹ FY09 claims results in FY10 reimbursements.

Approved FY09 Circuit Breaker Claims

Districts	Students	FY09 Claims	Less Foundation	Net Claims
288	11,576	\$671,789,426	(\$381,846,776)	\$289,942,650

Districts were allowed to claim for extraordinary relief in FY09 if their FY09 eligible costs exceeded their FY08 eligible costs by 25 percent. Fifty-two districts submitted claims for extraordinary relief and twenty-seven were determined to be eligible. These districts received relief from the FY09 “Circuit Breaker” appropriation totaling \$3.8 million.

Audits of FY09 claims

Chapter 27 of the Acts of 2009 required the Department to conduct audits of FY09 claims. Department staff developed an audit protocol to verify individual student claims submitted by the districts and to ensure that the amount of each claim was in accordance with the program’s regulations. Verification consisted of examining the students’ individualized education programs (IEPs) and tuition bills paid by the districts for students placed out-of-district. Overpayments and underpayments identified during the audit process will result in adjustments to reimbursements

¹ For certain students who are wards of the state, the statutory reimbursement rate is 100% rather than 75%.

paid in the third and fourth quarters of FY10. This audit cycle focused on districts that had not been audited in previous years; consequently, many of the districts audited were small districts.

Forty-seven district audits with a total of 1,225 individual student claims have been completed. Audit results indicate that costs were over-claimed for 343 students and under-claimed for 159 students, for a total of 502 incorrect claims. The following chart shows the reasons for variances. Total errors are greater than 502 because some claims had more than one error.

Summary of claim errors

Reason for variance	Number
Incorrect classification/claiming of services	438
Claimed incorrect tuition	186
Did not claim all services rendered	97
Incorrect dates of service	87
Student's cost less than the threshold	35
Did not claim an eligible student	34
Did not include cost share or claimed incorrect cost share	3
Total	880

Of the 502 adjusted claims, 183 adjustments amounted to \$1,000 or less. These small differences occurred for a number of reasons, such as not reconciling the actual tuition paid with the amount claimed; overpaying private schools by one day's tuition; paying a different tuition rate than the one established by the Operational Services Division (OSD); and entering incorrect dates on the claim form.

The audit process resulted in a reduction of total reimbursement for these students from \$14,744,189 to \$14,513,365, or 1.6 percent. While the number of errors found appears to be significant, the final result of the errors was a reduction in reimbursement totaling 1.6 percent. It should also be noted that a major consideration in the selection of audit candidates for this cycle was that the district had never experienced an audit since the program's inception. The first audit that most districts experience usually reveals similar errors in the claiming process.

The analysis of common mistakes developed from the audits will be used to improve program documentation and training for local officials. The Department will continue to provide training and technical assistance throughout the year to district business and special education staff to help them understand the program's requirements and improve the accuracy of their filings. Our goal is to reduce the number of audit findings in future years.

Summary of Circuit Breaker Program Costs, FY05 to FY10

(\$ millions)	FY05	FY06	FY07	FY08	FY09	FY10*
	Actual	Actual	Actual	Actual	Actual (after 9C cuts)	Estimated (after 9C cuts)
Appropriation	\$201.6	\$201.6	\$207.7	\$220.0	\$215.3	\$133.1
Net claims	\$248.5	\$241.4	\$250.6	\$261.6	\$277.3	\$289.9
Payments to districts	\$187.4	\$182.0	\$189.3	\$197.9	\$201.8	\$125.3
Reimbursement rate	75%	75%	75%	75%	72%	40%
Other earmarked costs	\$13.8	\$14.7	\$14.8	\$17.1	\$14.2	\$4.8

* Additional resources were made available in FY10 through the ARRA to assist districts in dealing with the reduction in funding.

Appendix A: Chapter 27 of the Acts of 2009

Line item 7061-0012

For the reimbursement of extraordinary special education costs under section 5A of chapter 71B of the General Laws; provided, that reimbursements shall be prorated so that expenses of this item do not exceed the amount appropriated in this item; provided further, that upon receipt by the department of elementary and secondary education of required special education cost reports from school districts, the department shall reimburse districts based on fiscal year 2009 claims; provided further, that the department may expend funds to continue and expand voluntary residential placement prevention programs between the department of elementary and secondary education and other departments within the executive office of health and human services that develop community-based support services for children and their families; provided further, that the department shall make funds available to the department of developmental services for the voluntary residential placement prevention program administered by that department; provided further, that the department shall expend funds to provide books in accessible synthetic audio format made available through the federal NIMAS-NIMAC book repository for the outreach and training of teachers and students for the use of NIMAS-NIMAC and human speech audio digital textbooks; provided further, that the department shall expend funds for the costs of borrowing audio textbooks by special education students; provided further, that funds may be expended for the monitoring and follow-up activities of the department's complaint management system, review and approval of local educational agency applications, and local school districts' compliance with the part B requirements of the federal Special Education Law, known as the Individuals with Disabilities Education Act, in the provision of special education and related services to children with disabilities; provided further, that funds may be expended to administer the reimbursements funded herein; provided further, that funds may be expended to reimburse districts for extraordinary increases in costs incurred during fiscal year 2010 which would be reimbursable under section 5A of chapter 71B; provided further, that reimbursements for current year costs shall be limited to school districts which experience increases of greater than 25 per cent from costs reimbursable under said section 5A of said chapter 71B and incurred during fiscal year 2009 to costs reimbursable under said section 5A of said chapter 71B and incurred during fiscal year 2010 or other cases of extraordinary hardship where special education costs increase in relationship to total district costs as the department may define through regulation or guidelines; provided further, that reimbursements for current year costs shall be allocated as one-time grants and shall not decrease reimbursements in the following fiscal year; provided further, that the department shall conduct audits of fiscal year 2009 claims; provided further, that if the claims are found to be inaccurate, the department shall recalculate the fiscal year 2010 reimbursement amount and adjust the third and fourth quarter payments to the districts to reflect the new reimbursement amount; and provided further, that the department shall file a report with the house and senate committees on ways and means not later than February 15, 2010, on the results of the

audit..... **\$140,113,160**